

## CHAPTER 24 EMERGENCY SHELTER GRANTS PROGRAM

**261—24.1(PL100-628) Purpose.** The program is designed to help improve the quality of existing emergency shelters for the homeless, to help make available additional emergency shelters, to help meet the costs of operating emergency shelters and providing certain essential social services to homeless individuals so that these persons have access not only to safe and sanitary shelter, but also to the supportive services and other types of assistance homeless persons need to improve their situations.

**261—24.2(PL100-628) Definitions.**

*“Applicant”* means a homeless assistance provider applying for funding through the ESGP program.

*“Conversion”* means a change in the use of a building to a facility to be used primarily to provide assistance to the homeless where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building before conversion.

*“Grantee”* means a designated city or county governmental unit receiving funds under this chapter on behalf of qualifying eligible applicants or a homeless assistance provider receiving funds directly from IDED.

*“Homeless”* or *“homeless individual”* means:

1. An individual who lacks a fixed, regular, and adequate nighttime residence; and
2. An individual who has a primary nighttime residence that is:
  - A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare, hotels, congregate shelters, and transitional housing for the mentally ill);
  - An institution that provides a temporary residence for individuals intended to be institutionalized; or
  - A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

*“HUD”* means the U.S. Department of Housing and Urban Development.

*“IDED”* means the Iowa department of economic development.

*“Major rehabilitation”* means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

*“Nonprofit recipient”* means any private nonprofit organization providing assistance to the homeless, to which a unit of general local government distributes emergency shelter grant funds. For purposes of this chapter a nonprofit recipient is a subgrantee.

*“Obligated”* means that the grantee has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. Grant amounts awarded by the IDED by a written agreement or letter of award requiring payment from the grant amounts are obligated.

*“Private nonprofit organization”* means a secular or religious organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Code,
2. Has an accounting system and a voluntary board, and
3. Practices nondiscrimination in the provision of assistance to which a unit of local government distributes emergency shelter grants program funds.

*“Rehabilitation”* means labor, materials, tools, and other costs of improving buildings including: repair directed toward an accumulation of deferred maintenance; replacement of principal fixtures and components of existing buildings; installation of security devices; and improvement through alterations or additions to, or enhancement of, existing buildings, including improvements to increase the efficient use of energy in buildings.

*“Renovation”* means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

*“Value of the building”* means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee.

**261—24.3(PL100-628) Eligible applicants.** City and county governments are eligible applicants under the emergency shelter grants program.

**261—24.4(PL100-628) Eligible activities.** As authorized by the Stewart B. McKinney Homeless Assistance Amendment Act of 1988 and as further defined in 24 Code of Federal Regulations, Part 576, activities assisted by this program may include only the following:

1. Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless.
2. Provision of essential services if the service is a new service or a quantifiable increase in the level of service. No more than 30 percent of the IDED annual grant amount may be used for this purpose.
3. Payment for eligible activities that assist in homeless prevention. Grants may be made for homeless prevention as long as the total amount of such grants does not exceed 30 percent of the total emergency shelter grants program allocation. Examples of eligible activities include, but are not limited to: short-term subsidies to help defray rent and utility arrearages for families faced with eviction or termination of utility services; security deposits or first month’s rent for a family to acquire its own apartment; programs to provide mediation services for landlord tenant disputes; or programs to provide legal representation to indigent tenants in eviction proceedings. Other possible types of homeless prevention efforts include making needed payments to prevent a home from falling into foreclosure.
4. Payment of maintenance, operation, insurance, utilities and furnishings.
5. Administrative costs. A grantee may use a portion of a grant received for administrative purposes as determined by the IDED. The maximum allowed for these administrative costs shall be 5 percent of the state of Iowa’s ESGP allocation. IDED reserves the authority for distribution of administrative funds.

**261—24.5(PL100-628) Ineligible activities.** The general rule is that any activity that is not authorized under the provisions of P.L. 100-628 is ineligible to be carried out with emergency shelter grant funds. The following are items specifically listed as ineligible in 24 Code of Federal Regulations, Part 576.

1. Acquisition of an emergency shelter for the homeless;
2. Renting commercial, transient accommodations for the homeless;
3. Staffing costs, except those allowed under 261—24.4(PL100-628), paragraph “5”;
4. Rehabilitation services, such as preparation of work specifications, loan processing, or inspections;
5. Renovate, rehabilitate, or convert buildings owned by primarily religious organizations or entities.

**261—24.6(PL100-628) Application procedures.** The Iowa department of economic development will request applications from eligible applicants as often as the state expects funding from the U.S. Department of Housing and Urban Development (HUD). Applicants will be given at least 30 days in which to reply to the state’s request. The Iowa department of economic development will make funding decisions within the time frame as determined by HUD. The application must be submitted on forms prescribed by IDED and must, at a minimum, include the amount of funds requested, the need for the funds, documentation on other available funding sources, source of the required local match, and estimated number of persons to be served by the applicant (daily average).

**261—24.7(PL100-628) Application review process.** Applications will be reviewed by a panel of the staff of the Iowa department of economic development and coordinated with representatives of other homeless assistance programs. Applications will initially be reviewed to determine basic eligibility based on the following criteria:

1. The need for funds:
  - To continue present operations;
  - To expand current operations;
  - To add a new service. (Applications from providers already in operation with a proven track record will be given priority over funding to start up new facilities.)
2. The impact of these funds:
  - To assist a larger clientele; and
  - To offer a service not previously available.
3. The evidence of local community support for the project.

If an application contains an activity determined to be ineligible under the ESG program within the request for funds, the ineligible activity will be deleted from the application or referred to another funding source, if applicable.

Staff reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application. Staff may also review applications with the department of human rights, department of human services or other groups with an expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources. Based on the review process, the IDED may revise the overall funding request by activity or funding level and recommend a final funding figure to the director of the IDED for approval. A city/county government designated on the applications will be contacted concerning potential participation as a grantee in the emergency shelter grants program. IDED reserves the right to negotiate all aspects of a funding request prior to final approval.

**261—24.8(PL100-628) Matching requirements.** Each recipient of emergency shelter grant funds must match the grant amount with an equal amount. This may come from a unit of local government or a nonprofit recipient. In calculating the amount of matching funds, the following may be included: the value of any donated material or building; the value of any lease on a building; any salary paid to staff of the grantee or to any state recipient in carrying out the emergency shelter program; and the time and services contributed by volunteers to carry out the emergency shelter program, determined at the rate of \$5 per hour. For purposes of this paragraph, the IDED will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish a fair market value.

The state may not require matching dollars up to a maximum of \$100,000 of the state allocation received from the U.S. Department of Housing and Urban Development from those local government recipients least capable of providing the state with such matching amounts. The local government must substantiate and document its need to participate in this exemption from matching requirements.

**261—24.9(PL100-628) Grant awards.** Each eligible applicant (city, county, or homeless provider) may apply on behalf of one or more nonprofit recipients. Grant awards will be made to a unit of local government (city/county) as specified in the grant application or as determined by the IDED. In nonmetropolitan areas where only one homeless provider would be covered by a city or county government specified in an application, the IDED will reserve the right to contract directly with that homeless provider.

If a city or county is designated as the grantee of an award, that city or county will be responsible for coordination of requests for funds by eligible nonprofit recipients within their jurisdiction by consolidating them into one contract.

IDED reserves the right to negotiate the amount of the grant award, the scale of the project, and alternative methods of completing the project.

**261—24.10(PL100-628) Restrictions placed on grantees.**

**24.10(1) *Use as an emergency shelter.*** Any building for which emergency shelter grant funds are used must be maintained as a shelter for the homeless for not less than a three-year period, or for not less than a ten-year period if the grant amounts are used for major rehabilitation or conversion of the building. All other operating and maintenance costs have a one-year requirement.

In calculating the applicable time period, the three- and ten-year periods are determined as follows:

- a.* In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant funds, on the date of initial occupancy as an emergency shelter for the homeless.
- b.* In the case of a building that was operated as an emergency shelter before receipt of grant funds, on the date that grant funds are first obligated to the shelter.

**24.10(2) *Building standards.*** Any building for which emergency shelter grant funds are used for renovation, conversion, or major rehabilitation must meet the local government standard of being in safe and sanitary condition.

**24.10(3) *Assistance to the homeless.*** Homeless individuals must be given assistance in obtaining:

- a.* Appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and
- b.* Other federal, state, local, and private assistance available for them.

**24.10(4) *Participation by homeless individuals and families.***

*a.* Local government recipients or qualified subrecipients of ESGP funds must certify that they involve, through employment, volunteer services or otherwise, homeless individuals and families, to the maximum extent practicable, in construction, renovating, maintaining, and operating assisted facilities.

*b.* Local government recipients or qualified subrecipients must certify to the participation of not less than one homeless person or formerly homeless person on their board of directors or equivalent policy-making entity. The secretary of the U.S. Department of Housing and Urban Development may grant a waiver to a recipient if the recipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.

**24.10(5) *Termination of assistance.*** Recipients or qualified subrecipients must establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. The formal process must include a hearing process recognizing the rights of individuals.

**261—24.11(PL100-628) Compliance with applicable federal and state laws and regulations.**

All grantees shall comply with all applicable provisions of the Stewart B. McKinney Homeless Assistance Amendment Act of 1988 and its implementing regulations. Grantees shall also comply with any provisions of the Iowa Code governing activities performed under this program. Use of emergency shelter grant funds must comply with the following additional requirements.

**24.11(1) *Nondiscrimination and equal opportunity.*** All grantees must comply with the following:

*a.* The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2002d) and implementing regulations issued at 24 CFR Part 1.

*b.* The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

c. The requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR Chapter 60.

d. The requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (see 24 CFR 570.607(b)).

e. The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, the grantee must make efforts to encourage the use of minority- and female-owned business enterprises in connection with activities funded.

f. The requirements of the Americans with Disabilities Act, as applicable.

**24.11(2) *Applicability of OMB Circulars.*** The policies, guidelines, and requirements of OMB Circular Nos. A-87 and A-102, as they relate to the acceptance and use of emergency shelter grant amounts by states and units of general local government are applicable to the emergency shelter grants program.

**24.11(3) *Uniform Federal Accessibility Standards.*** For major rehabilitation or conversion, the Uniform Federal Accessibility Standards at 24 CFR Part 40, Appendix A, shall apply to the emergency shelter grants program.

**24.11(4) *Lead-based paint.*** The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR Part 35 shall apply to the emergency shelter grants program.

**24.11(5) *Conflicts of interest.*** In addition to conflict of interest requirements in OMB Circular A-102 and A-110, no person (a) who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and who exercises or has exercised any functions or responsibilities with respect to assisted activities or (b) who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for the person or those with whom the person has family or business ties, during the person's tenure and for one year thereafter. HUD may grant an exception to the exclusion as provided in 24 CFR Part 570.611(d) and (e).

**24.11(6) *Use of debarred, suspended, or ineligible contracts.*** Pursuant to the provisions of 24 CFR Part 24, the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status is prohibited.

**24.11(7) *Flood insurance.*** No site proposed on which renovation, major rehabilitation, or conversion of a building is to be assisted, other than by grant amounts allocated to the state, may be located in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and its regulations (44 CFR Parts 59-79) or less than a year has passed since FEMA notification regarding flood hazards, and the grantee will ensure that flood insurance on the structure is obtained in compliance with Section 102(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

**24.11(8) *Audit.*** Audits shall be provided in accordance with 24 CFR Part 44.

**24.11(9) *Certification regarding Drug-Free Workplace Act.***

**24.11(10) *Certification regarding the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1979, Title II and Title III.***

**24.11(11) *Certification regarding consistency with the U.S. Department of Housing and Urban Development (HUD) approved homeless plan for the state of Iowa.***

## **261—24.12(PL100-628) Administration.**

**24.12(1) *Contracts.*** Upon selection of an application for funding, the IDED will issue a contract. The contract shall be between the IDED and the unit of local government as identified by the applicant or determined by the IDED. The IDED reserves the right to contract directly with the applicant if the applicant is located in a nonmetropolitan area and is the only applicant within the boundaries of a particular city or county. The designation by the community of another public agency to undertake

activities assisted under this program shall not relieve the grantee of its responsibilities in the administration of the program in accordance with all federal and state requirements, including these rules. These rules, and applicable federal and state laws and regulations, become a part of the contract.

Certain activities may require that permits or clearances be obtained from other state or federal agencies prior to proceeding with the project. Grant awards may be conditioned upon the timely completion of these requirements.

**24.12(2) *Record keeping and retention.*** Financial records, supporting documents, statistical records, the environmental review records required by 24 CFR 58.30, and all other records pertinent to the grant program shall be retained by the grantee in accordance with the following:

*a.* Records for any assisted activity shall be retained for three years after final closeout and audit procedures are completed and accepted by IDED;

*b.* Representatives of the Secretary of the Department of Housing and Urban Development, the Inspector General, the General Accounting Office, the state auditor's office, and the IDED shall have access to all books, accounts, documents, records and other property belonging to or in use by a grantee pertaining to the receipt of assistance under these rules.

**24.12(3) *Performance reports and reviews.*** Grantees shall submit grantee performance reports to IDED as prescribed in the contract. The reports will assess the use of funds in accordance with program objectives, the progress of program activities, and compliance with certain other program requirements.

IDED may perform any reviews or field inspections it deems necessary to ensure program compliance, including reviews of grantee performance reports. When problems of compliance are noted, IDED may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the implementation of 24.12(5).

**24.12(4) *Amendments to contracts.*** Any substantive change to a funded emergency shelter grant program will be considered a contract amendment. Substantive changes include: contract time extensions, budget revisions, and significant alterations of existing activities that will change the scope, location, objectives, or scale of the approved activities or beneficiaries. An amendment must be requested in writing by the chief elected official of the grantee. No amendment will be valid until approved in writing by IDED.

**24.12(5) *Remedies for noncompliance.*** At any time before project closeout, IDED may, for cause, find that a grantee is not in compliance with the requirements under this program. At IDED's discretion, remedies for noncompliance may include the following:

*a.* Issue a warning letter that further failure to comply with program requirements within a stated period of time will result in a more serious sanction.

*b.* Condition a future grant.

*c.* Direct the grantee to stop the incurring of costs with grant amounts.

*d.* Require that some or all of the grant amounts be remitted to the state.

*e.* Reduce the level of funds the recipient would otherwise be entitled to receive.

*f.* Elect not to provide future grant funds to the recipient until appropriate actions are taken to ensure compliance.

Reasons for a finding of noncompliance include, but are not limited to: the grantee's use of program funds for activities not described in its application, the grantee's failure to complete approved activities in a timely manner, the grantee's failure to comply with any applicable state or federal rules or regulations, or the lack of continuing capacity by the grantee to carry out the approved program in a timely manner.

These rules are intended to implement the Stewart B. McKinney Homeless Assistance Amendment Act of 1988 (PL 100-628) and Iowa Code section 15.108.

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